



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 20, 2016

Mr. Stephen D. Gates
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79701

OR2016-16378

Dear Mr. Gates:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 620337 (ORR# 19489).

The Midland Police Department (the "department") received a request for information pertaining to a named individual. The department states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007(c). Section 58.007(c) provides the following:

Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Id. Upon review, we find the submitted information involves alleged juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007(c), “child” means person who is ten years of age or older and under seventeen years of age when conduct occurred), .03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). Thus, the submitted information is generally confidential under section 58.007(c) of the Family Code.

However, the requestor is a representative of the Probation Office of the United States District Court for the Western District of Texas (the “probation office”). Section 58.007(e) gives a “criminal justice agency as . . . defined by Section 411.082, Government Code” a right of access to juvenile law enforcement records. *Id.* § 58.007(e). Section 411.082 of the Government Code defines a “criminal justice agency” as including “a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice[.]” Gov’t Code § 411.082(3)(A). We understand the probation office is a criminal justice agency as defined by section 411.082. *See id.* Therefore, the requestor has a right of access to the submitted information under section 58.007(e) of the Family Code. Because the requestor has a right of access to this information under section 58.007(e), the department may not withhold it under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Nevertheless, we note the submitted information contains motor vehicle record information subject to section 552.130 of the Government Code, which excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country.¹ *Id.* § 552.130(a)(2). Thus, the submitted motor vehicle record information, which we have marked, is generally excepted from disclosure under section 552.130 of the Government Code. However, as previously noted, the requestor has a statutory right to inspect the submitted information pursuant to section 58.007(e) of the Family Code. Therefore, we must address the conflict between the access provided under section 58.007(e) of the Family Code and the confidentiality provided under section 552.130 of the Government Code.

Where information falls within both a general and a specific provision of law, the specific provision prevails over the general. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d


¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

887, 901 (Tex. 2000) ("more specific statute controls over the more general"); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones). Section 58.007(e) generally applies to all juvenile law enforcement records, while section 552.130 specifically protects motor vehicle record information. Although a specific statutory right of access prevails over general exceptions to disclosure under the Act, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Consequently, we find the confidentiality provided by section 552.130 is more specific than the general right of access provided by section 58.007(e). Accordingly, notwithstanding the provisions of section 58.007(e) of the Family Code, the department must withhold the information we have marked under section 552.130 of the Government Code. The department must release the remaining information.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bhf

Ref: ID# 620337

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²Because the requestor has a special right of access to the information being released, the department must again seek a decision from this office if it receives another request for the same information from another requestor.